

REMARKS

Claims 1-3 and 6-10 are pending in this application. By this Amendment, claim 1 is amended. No new matter is added. Claims 4 and 5 are canceled without prejudice to, or disclaimer of, the subject matter recited in those claims. A Request for Continued Examination is attached. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, in paragraph 2, rejects claims 1-3 and 7-10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,203,656 to Syed in view of U.S. Patent No. 4,534,813 to Williamson et al. (hereinafter "Williamson"). The Office Action, in paragraph 3, rejects claims 1 and 4-6 under 35 U.S.C. §103(a) over what is alleged to be Applicant's admitted prior art (AAPA) in view of Syed and Williamson. These rejections are respectfully traversed.

Syed teaches an acoustic liner manufacture made by placing a raw adhesive septum between a pair of opposite honeycomb cores, and curing the septum to integrally bond the cores to the septum (Abstract). With reference to varying portions of the disclosure of Syed, the Office Action alleges that Syed teaches many of the features recited in the pending claims. The Office Action, however, concedes that Syed does not disclose forming the septum by applying separate parts to the honeycomb on the mold such that they abut each other so as to approximate the final shape. Rather, the Office Action relies on Williamson as allegedly disclosing such a feature. The analysis of the Office Action fails for at least the following reasons.

Claim 1 recites, among other features, the septum is obtained during the assembly of the panel by positioning a plurality of component parts edge to edge against one of the honeycombs and by covering the component parts positioned in this way by the other honeycomb, the component parts being cut from a flexible strip, the component parts being

defined so as to enable, with suitable flexing, an approximation of the final shape, by developable curved surfaces substantially joined together, to be obtained, the maximum error being noted as E, the transverse pressure then bringing about the deformation of the component parts so as to bring them to the final shape, E having a sufficiently low value to prevent the component parts from creasing and tearing during this deformation, wherein the maximum error E is a maximal distance between the developable surface and the final shape of the septum. The asserted combinations of applied references cannot reasonably be considered to have suggested such a combination of detailed structural features as is positively recited in the pending claims.

As discussed in at least paragraph [0052] of Applicant's disclosure, the number of component parts 50a must be limited in order to limit the total length of the adjacent edges 50c of the component parts 50a. The presence of adjacent edges 50c induces spaces which reduce the acoustic properties of the cells located above those spaces, and therefore the acoustic panel is less efficient in absorbing noise. The number of component parts, therefore, is determined by the value given to the maximum error E as positively recited in the pending claims. E must be high enough to limit the number of component parts 50a. E, however, must remain limited so that the component parts 50a do not form creases and do not tear under the effect of the pressure exerted when the septum is glued between two honeycombs (see, e.g., paragraph [0054]). There is nothing in the combination of Syed and Williamson to suggest such a specific combination of structural features.

Williamson teaches a method for making a curved surface by joining together different component parts, but makes no reference to specific limitations recited in the pending claims. The Office Action alleges that "[a]s to the error E one in the art would appreciate that since creases would not be desirable, one in the art would appreciate that a minimum distance between the septum and the honeycomb would be desired and would use

the appropriate number of septum sections to ensure this." Even if this were true, which Applicant does not concede, this does not address the full scope of the structural features positively recited in the pending claims with respect to the limiting values of the recited variable E. Further, because there is nothing in Syed or Williamson that would reasonably lead to a conclusion that one of ordinary skill in the art would somehow be directed at finding an optimal compromise of E to develop an acoustic panel which is both (1) sufficiently structured to absorb noise and (2) configured to maintain mechanical resilience during fabrication, it is not as simple a matter as the Office Action alleges to assert, in a simple conclusory manner without any objective evidence of record, that any optimization of either of the objectives, much less both, would have been predictable with any reasonable expectation of success. In fact, it appears as though the only manner by which such a conclusion can be made is through the improper application of hindsight reasoning based on the roadmap provided by Applicant's disclosure.

In attempting to rebut arguments similar to those presented above, the October 22 Advisory Action makes several errors.

First, in the same manner that the Office Action focused on tearing of parts being undesirable, the Advisory Action's focus on only this portion of the complex variable E is inappropriate. As disclosed, and as otherwise recited in the pending claims, E is a complex variable that takes into account all of the elements discussed in the preceding paragraph. Simply focusing on creasing and/or tearing for allegedly optimizing E improperly disregards all of the features that this variable is intended to encompass as discussed above. In fact, the Advisory Action focuses on "reducing E." E, however, is a "maximum error" as recited in the pending claims.

Second, while it is true, as stated in the Advisory Action that "[a]ny determination of obviousness must include not only the specifics of what the references disclose, but what one

of ordinary skill in the art would reasonably have done given the combination proposed in the rejection," there remains a requirement to show, by some objective evidence, some basis for the assertion of what one of ordinary skill in the art would have done given the combination proposed. The Advisory Action goes on to state that "Applicant has not shown that reducing the distance between the surface before molding and that after molding would not have been an obvious method of reducing the creasing and tearing in the article." This statement, on its face, convolutes the requirement for showing of obviousness. It is not up to Applicant's arguments to prove non-obviousness when obviousness has not been specifically shown through proper application of the applicable standards.

Third, the statement that "[t]his would appear to be routine optimization of the process, as would the determination of the number of components to use to cover the surface" again fails to address the complex nature of the variable E recited in the pending claims. Additionally, these mere conclusory statements made in the Advisory Action fail to establish the condition precedent to determining that a variable may be optimized through routine experimentation, which is to establish that the variable in question is recognized by those of ordinary skill as a result-effective variable.

For at least the foregoing reasons, the combined analysis of the Office Action and the Advisory Action with respect to what the combination of applied references can be considered to have suggested regarding the variable E recited in the pending claims is incomplete, and therefore does not form a basis by which to reject the subject matter of the pending claims as obvious over this combination of applied references.

In an effort to advance prosecution, Applicant amends claim 1 to incorporate the features previously recited in now-canceled claims 4 and 5. In addition to the arguments presented above, the rejection of claims 4 and 5 fails because it has not been properly shown further that a combination of features as recited in claims 4 and 5, now amended into claim 1

is suggested by any combination of Syed and Williamson, even in combination with what is alleged to be AAPA.

The rejection of claim 4 in the Office Action concedes that "the references do not disclose the septum is coated with adhesive." The rejection goes on to conclude, however, that because one would appreciate that multiple parts would move relative to one another, it would have been obvious to use an adhesive "to keep the septum parts in place relative to one another when they are placed on the honeycomb and to make the adhesive have strength the moment it contacts the honeycomb to keeps [sic] the parts from moving relative to one another." The Office Action then rejects claim 5 by asserting further that one in the art would appreciate that the same adhesive would allow movement of the part. These statements are specifically in conflict with one another and evidence the overly broad interpretation of what can reasonably be considered to be disclosed, or otherwise known, in the prior art, again for which no objective evidence of record has been provided to support the mere conclusory statements.

No permissible combination of Syed and Williamson, in addition to what is alleged to be known in the prior art would have led one of ordinary skill in the art to develop an acoustic panel in which the septum is made of component parts and is fixed on the surfaces of the two honeycombs by an adhesive having adhesive strength allowing for component parts to be debonded or moved as is now recited, among other features, in independent claim 1. Applicant's disclosure, at least at paragraphs [0017] and [0043] explains that the adhesive having adhesive strength allowing the component parts to be debonded or moved enables the component parts to be lifted or moved as required with a limited force in order that the operator can precisely adjust the position of the component parts in relation to each other when they are placed on the honeycomb. The component parts can thus be positioned precisely for forming the septum with the maximum error E. As noted above, the

determination of the maximum error E, which would not have been obvious, results from a need for the acoustic panel to be efficient in absorbing noise by limiting the number of component parts, as well as avoiding creases and tearing for the component parts under the effect of the pressure exerted when the septum is glued between the two honeycombs.

Further, with respect to the combination of Syed and Williamson, the analysis of the Office Action seems to forego application of the proper standards for an obviousness analysis. The Office Action summarily concludes that it would have been obvious to combine these references to make the solid septum of Syed from multiple parts, which are applied to the surface of the honeycomb so that the septum would accurately fix the complex curvature of the article. This conclusion requires first that, without more, one of ordinary skill in the art would have been willing to forego some amount of noise-absorbing capacity in the acoustic panel of Syed. This, on its face, is an unreasonable conclusion. Further, the analysis of the Office Action regarding the combination of Syed with Williamson fails for at least the additional reasons set forth in the October 14 response.

The Advisory Action asserts that the "examiner is using the references to show the combination and the selection of E flows naturally from the combination of references since one in the art would desire a product that would be useable and would optimize the process to do so." The Advisory Action then cites to portions of *KSR* regarding inferences and creative steps that a person of ordinary skill may reasonably be considered to employ concluding that "[t]he combination of Syed and Williamson teach all of the claim except E, which one in the art using 'ordinary creativity' and 'the inferences and creative steps' would be able to determine." The basis for these conclusions, other than the Office Action and Advisory Action's assertions that they must be true, has not been otherwise established regarding the complex variable E, which is conceded not to be suggested by the combination of applied references. The mere conclusory statements in this regard made in the Advisory Action

continue to ignore the Supreme Court's favorable endorsement, in its *KSR* opinion, of the conclusions set forth in the decision of the Federal Circuit in *In re Kahn* (citations omitted) that "rejections on obviousness grounds cannot be sustained with mere conclusory statements [as is the case here] instead there may be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." To the extent that the Office Action or the Advisory Action is alleged to assert some articulated reasoning, the proper rational underpinning has not been established, other than by mere conclusory statement, for the specific assertions set forth in the Office Action and the Advisory Action. An obviousness analysis cannot be sustained without some objective evidence of record to support the various conclusions asserted in rejecting the pending claims.

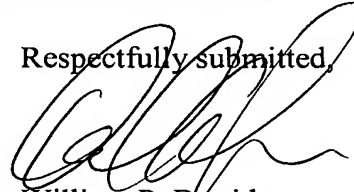
For at least the foregoing reasons, Syed and Williamson are not combinable in the manner suggested by the Office Action, and further are not combinable with anything that is alleged to be Applicant's admitted prior art. As such, the asserted rejections of the subject matter of at least independent claim 1, and the claims depending therefrom, necessarily fail. In other words, there is no permissible combination of Syed, Williamson and AAPA that would reasonably have suggested the combination of all of the features positively recited in independent claim 1. Further, claims 2, 3 and 6-10 would also not have been suggested by these combinations of applied references for at least the respective dependence of these claims directly or indirectly on an allowable base claim, as well as for the separately patentable subject that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-3 and 6-10 under 35 U.S.C. §103(a) over the varying combinations of applied references are respectfully requested.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-3 and 6-10 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,



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Attachments:

Request for Continued Examination
Petition for Extension of Time

Date: November 21, 2008

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